



U.S. Fish and Wildlife Service  
Sacramento Fish and Wildlife  
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California Department of Fish and Game  
1416 Ninth Street,  
Sacramento, California 95814

May 22, 2002

Mr. Arthur G. Baggett Jr., Chair  
State Water Resources Control Board  
P.O. Box 2000  
Sacramento, California 95812-2000

Subject: Order Denying Reconsideration and Amending Decision Approving Water Level Response Plan

Dear Mr. Baggett:

The purpose of this letter is to inform the State Water Resources Control Board (Board) that the U.S. Fish and Wildlife Service (Service) and California Department of Fish and Game (CDFG) support the Board staff recommendation to deny reconsideration of the approved Response Plan for Water Level Concerns in the South Delta pursuant to Decision 1641 (Response Plan). The Project Agencies (Department of Water Resources and U.S. Bureau of Reclamation) coordinated with the Service and CDFG throughout the development of the Response Plan and more recently at several Water Operations Management Team meetings.

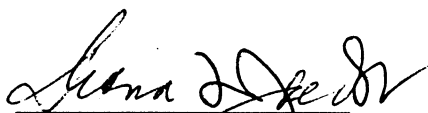
The Service and CDFG believe the Response Plan as approved provides an appropriate process to address water levels of concern in the southern Delta that may result from the incremental effects of joint point of diversion and water transfers. In our view, the Response Plan need only address the incremental impacts on water levels which impair ongoing or scheduled legal diversions during joint point of diversion use and water transfers. The Service and CDFG concur with the Board staff recommendation that a diverter must prove its water right before the Project Agencies must mitigate for water level impacts.

In summary, it is important to note that the joint point of diversion and water transfers are two vital components included in the CALFED Bay-Delta Record of Decision for the management of the Environmental Water Account assets to provide protection of fishery resources. In our opinion, the Response Plan before you is improved compared to last year's Response Plan. While it's possible the Response Plan may need to be adjusted in the future, the Service and CDFG recommend that the Board approve and adopt the Response Plan for a three to five year period.

Art Baggett  
May 22, 2002

If you have any questions regarding this letter, please contact Michael G. Thabault at the Service (916) 414-6600, Jim White at the Department of Fish and Game (916) 653-3540.

Sincerely,



Diana F. Jacobs  
Deputy Director Science Advisor  
California Department of Fish and Game



Wayne S. White  
Field Supervisor  
U.S. Fish and Wildlife Service

cc:

ARD (ES), Portland, OR  
DFG, Stockton, CA  
DWR, Sacramento, CA  
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